

Workshop Outline

I. Welcome, Introductions, & Agenda Review

- Workshop Goal: To provide participants with a basic understanding of land protection and stewardship concepts

II. Land Conservation & Stewardship Concepts

➤ **What is a Conservation Easement?**

- A permanent legally binding agreement between a landowner & a conservation organization which restricts the type and amount of future development
- Written in “perpetuity” to “run with the land”
- Grantee continues to own property
- Typically include a Purpose Statement, Use limitations, Reserved rights of the grantor, Rights of the grantee (ie. Easement holder – You?), etc.
- Deed Restrictions

➤ **What is Stewardship?**

- The ethical & legal obligation to monitor & enforce a conservation easement in perpetuity
- Generally involves annual monitoring & documenting property conditions, developing a relationship with the landowner, sometimes creating baseline documentation, interpreting easement restrictions, resolving problems, etc.
- When a town agrees to hold an easement the become the “Steward.”

➤ **Why is Stewardship Important?**

- To prevent future violations, saving time & money spotting problems early
- To maintain credibility of the organization as well as the use of conservation easements as a land conservation tool in general
- To provide a legal record for future stewards or for future court action if necessary
- To uphold the ethical and legal responsibilities (ex. IRS regulations)
- Does your town want to hold easements?

III. What Can Towns do to be Effective Stewards from a Planning Perspective?

➤ **Develop Relationships with your Conservation Commission & Local Land Trusts**

➤ **Update your Open Space Plan (or create one)**

- Identify key conservation target areas
- Incorporate more recent science (ex. Wildlife Action Plan)
- Acknowledge town’s responsibilities for stewardship of easements
- Be ready when a developer is looking for conservation lands as mitigation within your town (ex. State wetland permitting mitigation requirements)

➤ **During the Planning Board Review Process**

- Understand the relationship between the proposed open-space and the larger landscape – Does it make sense? Is it surrounded by development? Connected to other conserved lands? What’s the shape of the boundary? Does it cross several properties?
- Be aware of other larger land protection efforts in your town
- How difficult will it be to monitor? (Is there public access? ATV use? Surrounded by development?)
- Review the easement language – Will unusual reserved rights make stewardship difficult? Are there grantee prior approval clauses?

- Consider adopting a standard easement language template
- Before issuing permit, require that the easement be recorded & easement boundaries be surveyed and marked. Obtain baseline documentation? Stewardship funds?

III. Basic Elements of a Stewardship Program

Proper stewardship requires organization, diligence, and consistency. Fortunately, there are many models, templates, and resources that are available to create or enhance a stewardship program, easily and inexpensively.

➤ **Organization**

- Creates efficiency
- Engenders security of documentation
- Demonstrates commitment and professionalism
- Inspires involvement
- Vital to volunteer efforts
- Financially prudent, from setup through enforcement

➤ **Diligence**

- Your stewardship efforts are only as valuable as they are through and complete
- Be methodical and follow through
- Fulfill obligations, legal and otherwise
- Get it done !!!

➤ **Consistency**

- Creates stability throughout a stewardship program
- Policies and Standards are necessary to maintain consistency and quality
- Important in every phase from record keeping through to enforcement
- Avoid precedents and unintended consequences
- Keep it B&W, stay away from shades of gray
- Reduces chances of conflicts / problems

➤ **Determine what you have for protected lands in your town**

- You need to know what you have in order to begin, to plan, to execute
- What properties are you responsible for, and what are those responsibilities?
- Having a clear picture is an important communication tool
- You want conservation lands to be viewed by the community as an asset
- Database, Document Management Software (Erhler's), Spreadsheet, and Maps are four methods for managing your information.

➤ **Who is going to do the work?**

- Many towns rely on volunteers to conduct at least some portion of the work
- Volunteers need training, tools, and support
- Paid staff need training, tools, and support
- Support includes selectmen and / or town manager, and a budget
- Contracted consultant is another method
- Remember "consistency"

➤ **Baseline Documentation**

- It is a legal record of the condition of the property at time of the transfer
- The basis for comparison of the land condition in the future
- Required by IRS for landowners taking a tax deduction
- Baseline Documentation Report (BDR) range from the simple to the 4-inch binder

- Sometimes they come already prepared as part of a project package
- **Record keeping / file storage**
 - Must be safe, secure, fireproof, and if possible backed up
 - Documents belong to the town and belong in a secure town facility
 - This information is critical to both stewardship and enforcement
 - Creates efficiency and is financially prudent
 - Access should be controlled and available to those who need it
- **Importance of landowner relationship and communications**
 - Arguably the most important element in a stewardship program
 - Time spent here more than pays for itself
 - The land takes care of itself, it is people that require management
 - Landowner needs to be fully aware of the responsibilities required by the CE
 - Establish relationship with *new* landowners to existing CEs ASAP and provide resources
 - Be a conservation resource to all landowners!!! Create the working relationship, helping them accomplish their goals within the context of the CE and your goals
- **Monitoring – An Information Gathering Activity**
 - The regular (annual) and systematic gathering of information to identify changes and ensure the property is being used in accordance with the terms of the CE
 - Develops and maintains a positive landowner relationship (abutters, communities, etc.)
 - “Plan” and “Prepare” for a safe, efficient, and productive visit
 - Be proficient with map and compass
 - Create a “Monitoring Field Pack”
 - The Field File (sometimes a stripped down version of baseline documentation)
 - Every monitoring visit is unique (see Landowner and Monitoring Visit Checklists)
 - Interpretations are NOT done in the field
 - Management and stewardship plans, can be as important as the CE itself
 - Boundary maintenance, should be encouraged and possibly conducted
 - GPS & Digital Photography, great tools if they can be included
- **Monitoring documentation**
 - This is your town’s protection, be diligent and thorough, “*fish in pond*”
 - Provides a record in the event court action becomes necessary
 - Satisfy IRS (and others) requirement to protect conservation purposes
 - Creates continuity, others in future may need to rely on your work
 - The Office File
 - Follow up on any items as needed
- **Enforcement – begins with interpretation**
 - If you have done due diligence with all the steps above you minimize the likelihood of violations and enforcement being necessary, and if necessary escalating to higher levels
 - Create a policy
 - Solve from bottom up if possible
 - Gather information, review file, discuss issue
 - Consult legal counsel if necessary
 - Clearly communicate in writing (documentation) to involved parties
 - Enforcement protects the conservation values
 - Enforcement strengthens public confidence in CEs and responsible entities
 - Failure jeopardizes organization